

EXHIBIT 1

**For Federal civil complaint/filing
-- PLAINTFF'S BRIEF / MEMORANDUM IN
OPPOSITION TO
"MOTION for Summary Judgment by
Executive Office for United States Attorneys,
United States Department Of Justice."
(Documents #49, and #48) -- OPPOSING
BRIEF IN OPPOSITION TO THE
GOVERNMENT'S/DEFENDANTS'/MOVANT'S
MOTION AND BRIEF/MEMORANDUM UNDER
DOCUMENTS #49 AND #48" --
Brian David Hill v. Executive Office
for United States Attorneys (EOUSA),
United States Department of Justice
(U.S. DOJ)
Civil Case Number 4:17-cv-00027**

U.S.W.G.O.

**In the United States District Court
For the Western District of Virginia
Danville Division**

Brian David Hill)	
Plaintiff(s))	
)	
v.)	Civil Action No. 4:17-cv-00027
)	
Executive Office for United States Attorneys)	
(EOUSA))	
&)	
United States Department of Justice (U.S. DOJ))	
Defendant(s))	
)	

**Declaration of Plaintiff Brian David Hill in support of “PLAINTFF’S BRIEF /
MEMORANDUM IN OPPOSITION TO “MOTION for Summary Judgment
by Executive Office for United States Attorneys, United States Department Of
Justice.””**

**I, Brian David Hill, declare pursuant to Title 28 U.S.C. § 1746 and subject to
the penalties of perjury, that the following is true and correct:**

1. I am the Plaintiff in the civil case Brian David Hill v. Executive Office for United States Attorneys (EOUSA) and United States Department of Justice (U.S. DOJ), in the United States District Court for the Western District of Virginia, Case no. 4:17-cv-27, and am proceeding in this case Pro Se and in forma pauperis (IFP). I am disabled, live off of Social Security Disability SSI monthly income. I have Autism Spectrum Disorder, Obsessive Compulsive Disorder, Generalized Anxiety Disorder, and Type 1 Brittle Diabetes. I am however competent to make this Declaration and make sure

that it conforms to the standard of what usually is required under Title 28 U.S.C. § 1746 for this to be a valid and admissible Declaration for this case.

2. All information that I am testifying to in this Declaration is of my own personal knowledge and what I have witnessed as a criminal Defendant in my criminal case United States of America v. Brian David Hill, case no 1:13-cr-435-1, U.S. District Court for the Middle District of North Carolina, and was filed under the authority of U.S. Attorney Ripley Rand in 2013, as now he is no longer employed by the U.S. Attorney Office after the election victory of Donald John Trump for Office of President of the United States. Prosecution was filed and represented by Anand Prakash Ramaswamy of the United States Attorney Office for the Middle District of North Carolina.
3. On January 22, 2015, I am aware of all documents and the Audio CD of my false criminal confession on August 29, 2012, that was contained in my criminal case discovery packet that was retained by my former court appointed lawyer Eric David Placke ("Mr. Placke"), Assistant Federal Public Defender, for the Middle District of North Carolina, whom had been supposed to represent me in my criminal case but didn't do anything to prove my actual innocence when he clearly could have according to what I know from the discovery evidence reports.
4. I have reviewed over U.S. District Court N.C.M.D. or M.D.N.C. (Middle District of North Carolina) criminal case Document #115 which is the September 30, 2014 Court hearing Transcript from the criminal case United States of America v. Brian David Hill, case no 1:13-cr-435-1, U.S. District Court for the Middle District of North Carolina. I am aware that it was stated

in open Court that Anand Prakash Ramaswamy was given back the Defense Counsel's copy of the U.S. Attorney's case prosecution files of Brian David Hill (myself) aka the discovery materials that had been previously obtained by Mr. Placke via discovery request that was done pretrial. However I still have not ever seen the discovery agreement between AUSA Ramaswamy and Mr. Placke and neither of the discovery request letter since Mr. Placke kept all of that a secret from me. Document #115 has some statements that the Court in the Western District of Virginia should be aware of as FACT in my Freedom of Information Act case. I was with Mr. Placke at the time that such statement was said in open Court so I know that Mr. Placke did make such statements in reference to the discovery materials which are in the possession of the United States Attorney Office for the Middle District of North Carolina.

- a. Case 1:13-cr-00435-TDS, Document #115, Filed 06/24/15, Pages 18 and 19 of 21:** “MR. PLACKE: Your Honor, I received in terms of discovery in this case from the Government two CDs, one of which contained the audio recording of the interview of Mr. Hill, the other of which contained law enforcement reports in PDF format. I've printed those out. The reports are a Mayodan Police Department report dated August 22, 2012, and a North Carolina State Bureau of Investigation case file dated October 23, 2013. And perhaps in light of everything else, I should just return those to the Government at this point.” “**THE COURT: Mr. Ramaswamy, I'll note Mr. Placke is returning the material to you.** My sealing order does not prohibit your disclosure of that same material to substitute counsel in the case, but it can only be done with the understanding of no further disclosure at this point to occur until at least the time of the status conference on the 15th.”

This proves that Anand Prakash Ramaswamy and/or the United States Attorney Office (“USAO”) for the Middle District of North Carolina (“MDNC”) of their federal case prosecution file concerning myself, that the USAO-MDNC has the N.C. State Bureau of Investigation case file concerning myself, Brian David Hill, which I believe is also subject to the FOIA as the Executive Office for United States Attorneys (“EOUSA”) did provide to me 19-pages of the copy of the Mayodan Police Report with redactions even though I have the complete 20-pages of the Mayodan Police Report concerning myself without the redactions. I was also aware of the leak regarding the few images of document photographs that appear to be similar to the documents that were used in my criminal case which were not released to me in response to my Freedom of Information Act (“FOIA”) request. Mr. Placke did tell the Court that the USAO-MDNC does have the one CD disc “which contained the audio recording of the interview of Mr. Hill” aka the Confession Audio CD that was also requested via the FOIA but was not released via the EOUSA’s FOIA response and neither was there any indication as to what reason as to why it was withheld in response to my FOIA request.

5. I have reviewed over U.S. District Court N.C.M.D. or M.D.N.C. (Middle District of North Carolina) criminal case Document #19 which is at one time considered the FACTUAL BASIS from the criminal case United States of America v. Brian David Hill, case no 1:13-cr-435-1, U.S. District Court for the Middle District of North Carolina. I am now challenging the factual basis of guilt now that I am out of jail and have access to better resources than the severely limited resources while I was incarcerated from December 2013 to November 2014. I am aware that it was stated in the factual basis document

by Anand Prakash Ramaswamy regarding further evidence as to what was in the U.S. Attorney's case prosecution files of Brian David Hill (myself) regarding the discovery materials that are within the possession of the U.S. Attorney Office for the Middle District of North Carolina. Document #19 has some statements that the Court in the Western District of Virginia should be aware of as FACT in my Freedom of Information Act case, that prove there was more records than what was admitted by Cheryl Thornton Sloan that should be subject to the FOIA to help FOIA Requester Brian David Hill to prove factual innocence in Federal Court. I had personally received and reviewed over the FACTUAL BASIS document given to me by Mr. Placke at the time that such written statement was filed with the Court by Anand Prakash Ramaswamy so I know that the FACTUAL BASIS made statements that are in reference to the very discovery materials which are in the possession of the United States Attorney Office for the Middle District of North Carolina.

- a. **Case 1:13-cr-00435-WO, Document #19, Filed 06/10/14, Pages 1 and 2: "A forensic examination of computer media possessed by HILL showed that..." and "In a consensual, noncustodial interview the following day, HILL admitted".**

This proves that Anand Prakash Ramaswamy and/or the United States Attorney Office ("USAO") for the Middle District of North Carolina ("MDNC") of their federal case prosecution file concerning myself, that the USAO-MDNC has the N.C. State Bureau of Investigation case file concerning myself, Brian David Hill, which I believe is also subject to the FOIA. The Assistant U.S. Attorney Anand Prakash Ramaswamy stated a term in the sentence in their FACTUAL BASIS document that "**A forensic examination of computer media possessed by HILL showed that...**" and

of course the “VAUGHN INDEX” does not mention anything about this so called “forensic examination” report referring to the N.C. SBI Case File. The Assistant U.S. Attorney Anand Prakash Ramaswamy stated a term in the sentence in their FACTUAL BASIS document that “**In a consensual, noncustodial interview the following day, HILL admitted**” which is referring to my false criminal confession at Mayodan Police Department that was recorded via audio and should be in the custody of the United States Attorney Office for the Middle District of North Carolina.

6. Thanks to my family downloading the Court Documents on December 22, 2017, I have had a chance to review the “VAUGHN INDEX – EOUSA”, “Hill v. EOUSA and U.S. Department of Justice, Case No.: 4:17-cv-00027 (W.D.VA.)” on December 24, 2017 via my HP Desktop Computer that I am permitted to use for my legal work (See Document #49-2, aka the Vaughn Index). I have reviewed the following information:

- a. **Bates Number 00001 - 00003:** Description: “Mayodan Police Department Incident/Investigation Report”, “Redacted the names of witnesses, and names and telephone numbers of Mayodan law enforcement officers.”
- b. **Bates Number 00004 - 00016:** Description: “Case Supplemental Report”, “Redacted the names of witnesses and information related to the witnesses’ statements; redacted names of Mayodan law enforcement and State Assistant District Attorney; redacted information related to the State Assistant District Attorney and law enforcement officers’ legal and investigative strategies related to plaintiff criminal case.”

- c. Bates Number 00017 - 00021:** Description: "Receipt of Evidence and/or Property", "Redacted the names of Mayodan law enforcement officers."
- d. Bates Number 00022:** Description: "Property and Evidence Voucher", "Redacted the names of Mayodan law enforcement officers."
- e. Bates Number 00023 - 00025:** Description: "Mayodan Police Department – Voluntary Statement", "Redacted the names of Mayodan law enforcement officers."
- f. Bates Number 00026:** Description: "Mayodan Police Department Interview/Miranda Warning Form", "Redacted the names of Mayodan law enforcement officers."

I have determined that all records listed in the "VAUGHN INDEX – EOUSA" is incomplete as it did mention anything about the other records which should be in the federal prosecution case files concerning Brian David Hill, the very FOIA requester which is myself requesting records of myself for the purpose of assisting me in proving my actual innocence to the charge of possession of child pornography, the very charge which I was wrongfully convicted on due to ineffective assistance of Counsel that acted as a Prosecuting Attorney that had only wanted to assist the Federal Prosecutor aka Anand Prakash Ramaswamy and the entire United States Attorney Office in wrongfully convicting me.

7. I am aware of the N.C. State Bureau of Investigation case file on Subject/Suspect: Brian David Hill which I believe should be in the records of the USAO-MDNC and I do not understand why they are stonewalling me so much on getting access to and inspect and/or make photocopies of such

record when they can easily just make a copy of that record, mail it to me, and be done with it and let me prove my actual innocence, let me try to do so but they don't want to.

8. I am aware of the Audio CD-ROM disc containing the false confession dated August 29, 2012 of myself, Brian David Hill which I believe should be in the records of the USAO-MDNC and I do not understand why they are stonewalling me so much on getting access to and inspect, analyze the audio wave DATA and metadata, and/or make photo or audio copies of such audio record when they can easily just make a copy of that Audio CD disc record, mail it to me, and be done with it and let me prove my actual innocence, let me try to do so but they don't want to.
9. I have looked through the discovery pages at John Scott Coalter's office on January 22, 2015. I was never allowed to read through the entire discovery packet in front of the presence of Eric David Placke. He never gave me the opportunity to read through all of the pages and I had explained before that I was in a Maximum Security Detention type conditions at Forsyth County Detention Center. I was incarcerated in the type of conditions where Mr. Placke had total control over what I could and could not see from the discovery packet of records concerning my criminal case prior to me falsely taking the guilty plea on June 10, 2014. I found out about the suspected download dates of emule.exe through the so-called forensic examination of server.met on January 22, 2015. My family did take notes at John Scott Coalter's office in Greensboro, North Carolina. I know for a fact that they do exist and should be in the custody of USAO-MDNC. For Cheryl Thornton Sloan to push as if those records do not exist and/or are not subject to the

FOIA proves my suspicions that those records may have been illegally concealed and/or covered up which may be a criminal violation of Title 18 U.S.C. § 1519. I want those people arrested and removed from my criminal case and they need to not be the ones defending the EOUSA either. I am considering whether I should start asking The White House and/or the U.S. Department of Justice to appoint Special Counsel as Cheryl Thornton Sloan is on the payroll of working under the United States Attorney office for the Middle District of North Carolina and may be biased towards the benefit of the very office that she is employed under. I believe Special Counsel needs to take over prosecution of the Government's criminal case concerning myself as the criminal Defendant. I think the Court needs to recommend that Special Counsel be appointed for the Government in both this case and in my federal criminal case to prevent any further conflict or conflicts of interest and possible retaliation and/or discrimination. If current U.S. President Trump is allowed to request Special Counsel to be appointed to investigate any possible times between him and the Russian Government, then why not appoint me Special Counsel to investigate the possible criminal misconduct of the USAO-MDNC, and the wrongful conviction of Brian David Hill.

10. When my family showed me the leaked SBI document photographs that were released on archive.org (See Document #2-5, aka Exhibit 5 of my original COMPLAINT in this FOIA lawsuit), I was outraged when I knew that the download dates in the leaked image are information similar to the very same discovery report that I saw at John Scott Coalter's office and the "CERTIFICATE OF DELIVERY" of the "STATE BUREAU OF INVESTIGATION CASE FILE" "SBI Case File # 2012-02146",

“Subject/Suspect(s): Brian David Hill”, was delivered to “AUSA A. Ramaswamy” on 10/23/2015. That record is in the custody of Anand Prakash Ramaswamy and/or the USAO-MDNC. Yet those records should be subject to the FOIA. They cannot just pretend that those records do not exist and/or cannot just disappear or destroy such records as that may be unlawful removal and/or cover up of such records.

11. **Exhibit 3** as attached to “*Declaration of Plaintiff Brian David Hill in support of “PLAINTFF’S BRIEF / MEMORANDUM IN OPPOSITION TO “MOTION for Summary Judgment by Executive Office for United States Attorneys, United States Department Of Justice.””*”, is a true and correct copy of a 10-page FAX that was transmitted to the “*To: U.S. Dept. of Justice, Executive Office for US Attorneys*”, “*Attn.: FOIA/Privacy Office FOI/PA*”, dated September 16, 2016. The letter inside of this Transmitted FAX was of the FOIA request letter dated Monday, August 29, 2016, 12:33 AM”. The original August 29, 2016, FOIA Request letter was faxed multiple times out of concern that there may be a cover up or suppression of my second FOIA request getting to the EOUSA to compel the U.S. Attorney to give me a copy of all of my criminal case discovery records. I was also afraid that they may had misplaced my August 29, 2016 FOIA request so this FAX was sent in to make sure that the EOUSA FOIA office had received it that was supposed to be separate from my July 25, 2016 FOIA request. The copy of this letter filed was copied from my VentaFax Log Book which contains all of my stored fax records which were all transmitted via the VentaFax software. The Transmission Ticket is also included in this Exhibit before the FAX transmitted document as proof that such document was successfully transmitted. The total number of pages for this Exhibit is

11 pages total. All social security numbers are redacted to comply with the redaction requirement rule of the Federal Rules of Civil Procedure, and to protect the privacy of Plaintiff Brian David Hill under the U.S. Privacy Act.

1. **Exhibit 4** (*Exhibit declared under penalty of perjury in Brian David Hill's Declaration under Exhibit 1, to make sure that it complies with the Federal Rules of Evidence*): **Exhibit 4** as attached to "*Declaration of Plaintiff Brian David Hill in support of "PLAINTFF'S BRIEF / MEMORANDUM IN OPPOSITION TO "MOTION for Summary Judgment by Executive Office for United States Attorneys, United States Department Of Justice."*", is a true and correct copy of Page 12 of the Mayodan Police Report that was used in the criminal case against Brian David Hill. The total number of pages for this Exhibit is **1-page total.**

12. **Exhibit 5** (*Exhibit declared under penalty of perjury in Brian David Hill's Declaration under Exhibit 1, to make sure that it complies with the Federal Rules of Evidence*): **Exhibit 5** as attached to "*Declaration of Plaintiff Brian David Hill in support of "PLAINTFF'S BRIEF / MEMORANDUM IN OPPOSITION TO "MOTION for Summary Judgment by Executive Office for United States Attorneys, United States Department Of Justice."*", is a true and correct copy of Page 12 of the Mayodan Police Report that was released by the Executive Office for United States Attorneys ("EOUSA") pursuant to Plaintiff Brian David Hill's FOIA request or requests. The original page (without the redaction) out of the 20-page Mayodan Police Report was used in the criminal case against Brian David Hill. The total number of pages for this Exhibit is **1-page total.**

Pursuant to 28 U.S. C. § 1746,

I declare under penalty of perjury that the foregoing is true and correct.

Respectfully submitted,

Executed on:

December 30, 2017

Brian D. Hill

Signed

Signed

Brian D. Hill (Pro Se)

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U.S.W.G.O.